

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R015-17

July 14, 2017

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-7, NRS 445B.210 and 445B.300; §8, NRS 459.3818 and 459.3829; §9, NRS 445B.210 and 486A.150.

A REGULATION relating to air pollution; revising provisions relating to public notice of the approval or denial of permits for certain sources of air pollution; revising provisions relating to the approval or denial of new processes relating to hazardous chemicals or explosives; revising provisions relating to public notice of the approval or denial of certain alternative fuels; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations to prevent, abate and control air pollution. (NRS 445B.210) Existing law also authorizes the Commission to adopt regulations requiring owners or operators of a source of air pollution to obtain operating permits for that source generally or within a specified class or classes. (NRS 445B.300) Under existing regulations, the Director of the State Department of Conservation and Natural Resources is required to provide public notice of a preliminary determination to issue or deny certain permits by publishing the notice in a newspaper of general circulation in the area in which the stationary source is located or a statewide newspaper. (NAC 445B.3364, 445B.3395, 445B.3477, 445B.3657, 445B.3677, 445B.3683) **Sections 1, 2 and 4-7** of this regulation revise the public notice requirements to instead require the Director to publish notice of his or her proposed action and, when applicable, a copy of the proposed permit on an Internet website designed to give general public notice.

If the Director makes a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit, existing regulation requires the Director to publish notice of the proposed action on an Internet website designated to give public notice and provide public notice of the Director's proposed action and a copy of the application to a public library in the area in which the proposed new Class II source or the proposed modification to the existing Class II source is located. (NAC 445B.3457) **Section 3** removes the requirement that the Director provide notice of his or her proposed action and a copy of the application to a public library in the area in which a proposed Class II source or modification to a Class II source is located.

Existing law requires the Commission to adopt regulations to carry out provisions relating to the handling of hazardous chemicals or explosives and regulations relating to the issuance of permits for new processes subject to the regulations of the Commission regarding hazardous chemicals and explosives. (NRS 459.3818, 459.3829) Existing regulations require the Division of Environmental Protection of the State Department of Conservation and Natural Resources to publish public notice of an application to construct a new process in a newspaper of general circulation for the area in which the process is located. (NAC 459.953465) **Section 8** of this regulation instead requires the Division to publish the notice on an Internet website designed to give general public notice.

Existing law requires the Commission to adopt regulations necessary to carry out provisions relating to the use of alternative fuels and clean vehicles which are owned, leased or operated by a state agency or local governing body. (NRS 486A.150) Existing regulations require the Administrator of the Division to provide public notice of his or her intent to designate a fuel as an alternate fuel by publishing the notice in a newspaper of general circulation throughout the State. (NAC 486A.140) **Section 9** of this regulation instead requires the Administrator to publish such notice on an Internet website designed to give general public notice.

Section 1. NAC 445B.3364 is hereby amended to read as follows:

445B.3364 1. Except for sources that are subject to the permitting requirements set forth in 40 C.F.R. § 52.21 or sources subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, within 45 days after the date of receipt of an application for a Class I operating permit to construct or for the revision of a Class I operating permit to construct, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 45 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 46th day after the date of receipt, whichever is earlier. Within 90 days after the official date of submittal, the Director shall make a preliminary

determination to issue or deny a Class I operating permit to construct or a revision of a Class I operating permit to construct.

2. For sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 30 days after the date of receipt of an application for a Class I operating permit to construct or for the revision of a Class I operating permit to construct, the Director shall determine whether the application contains adequate information to process the application. The official date of submittal of the application shall be deemed to be 31 days after the date of receipt, unless the Director determines before that date that substantial additional information is required. If the Director determines that substantial additional information is required, the Director shall return the application to the applicant. The Director shall require the applicant to submit a new application, or the applicant may formally withdraw the application. Within 180 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny an operating permit to construct or a revision of an operating permit to construct. For the purposes of 40 C.F.R. § 52.21, the application shall be deemed to be complete on the date that the Director makes the preliminary determination to issue or deny a Class I operating permit to construct or a revision of an operating permit to construct.

3. For sources subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, within 30 days after the date of receipt of an application for a Class I operating permit to construct or for the revision of a Class I operating permit to construct, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that

the application is incomplete within 30 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt, whichever is earlier. Within 180 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct or the revision of the Class I operating permit to construct.

4. For the submittal of an application for a Class I operating permit to construct for the approval of a plantwide applicability limitation, within 30 days after the date of receipt of such an application, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 30 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt, whichever is earlier. Within 120 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct for the approval of a plantwide applicability limitation.

5. If, after the official date of submittal, the Director discovers that additional information is required to act on an application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.390, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director.

Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

6. The Director's review and preliminary intent to issue or deny an operating permit to construct or a revision of an operating permit to construct and the proposed conditions for the operating permit to construct must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249 and in the air quality region where the source is located for 30 days to enable public and EPA participation and comment.

7. The Director shall:

(a) ~~Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the stationary source is located or in a state publication~~ *Publish notice of the Director's preliminary intent to issue or deny an operating permit to construct or a revision of an operating permit to construct and a copy of the proposed Class I operating permit on an Internet website* designed to give general public notice;

(b) Provide written notice to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public;

(d) Provide a copy of the Director's preliminary intent to issue or deny the operating permit to construct and the proposed operating permit to construct to the Administrator;

(e) Provide a copy of the Director's preliminary intent to issue or deny the operating permit to construct to each affected local air pollution control agency;

(f) Establish a 30-day period for comment from the public and the EPA; and

(g) If the application is for an administrative revision to a Class I operating permit, provide written notice to each affected state.

8. In addition to the requirements set forth in subsection 7, the notice required for a Class I operating permit to construct or for a revision of a Class I operating permit to construct must:

(a) Identify the affected facility and the name and address of the applicant;

(b) Include the name and address of the authority processing the Class I operating permit to construct;

(c) Identify the activity or activities involved in the Class I operating permit to construct and the change of emissions involved in any revision of the Class I operating permit to construct;

(d) State that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable;

(e) Include the name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the Class I operating permit to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the Class I operating permit to construct and which are relevant to the determination of the issuance of the Class I operating permit to construct;

(f) Include a brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing; and

(g) If applicable, include a description of any revisions to a Class I operating permit resulting from an administrative revision to the Class I operating permit.

9. All comments concerning the Director's review and the preliminary intent for the issuance or denial of a Class I operating permit to construct or of a revision of a Class I operating

permit to construct must be submitted in writing to the Director within 30 days after the public announcement. The Director shall give notice of any public hearing at least 30 days before the date of the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

10. Except as otherwise provided in subsections 11 to 14, inclusive, within 180 days after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct. The Director shall make the decision by taking into account:

- (a) Written comments from the public;
- (b) Comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;
- (c) Information submitted by proponents of the project; and
- (d) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.

11. Except as otherwise provided in subsection 12, for sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 12 months after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct.

12. The Director shall issue or deny a Class I operating permit to construct for the approval of a plantwide applicability limitation within 30 days after the close of the period for public

participation or 30 days after the hearing, if a hearing is scheduled pursuant to this section, whichever occurs later.

13. For a source, or proposed source, subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, within 12 months after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct.

14. The Director shall not issue an administrative revision to a Class I operating permit if the Administrator objects to the issuance of the administrative revision in writing within 45 days after the Administrator's receipt of the proposed revision conditions for the Class I operating permit and the necessary supporting information.

15. Any person may petition the Administrator to request that the Administrator object to the issuance of an administrative revision to a Class I operating permit as provided in 40 C.F.R. § 70.8(d).

16. If, on his or her own or pursuant to a request by a person pursuant to subsection 15, the Administrator objects to the issuance of an administrative revision to a Class I operating permit, the Director shall submit revised proposed conditions for the Class I operating permit in response to the objection within 90 days after the date on which he or she is notified of the objection.

Sec. 2. NAC 445B.3395 is hereby amended to read as follows:

445B.3395 1. Except for sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21 and as otherwise provided in this subsection, within 60 days after the date on which an application for a Class I operating permit or for the significant revision of a Class I operating permit is received, the Director shall determine whether the application is complete. If

substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine that the application is complete. Unless the Director determines that the application is incomplete within 60 days after the date of receipt, the official date of submittal shall be deemed to be the date on which the Director determines that the application is complete or 61 days after the date of receipt, whichever is earlier.

2. For sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 30 days after the date of receipt of an application for a Class I operating permit or for the revision of a Class I operating permit, the Director shall determine whether the application contains adequate information to process the application. The official date of submittal of the application shall be deemed to be 31 days after the date of receipt, unless the Director determines before that date that substantial additional information is required. If the Director determines that substantial additional information is required, the Director shall return the application to the applicant. The Director shall require the applicant to submit a new application or the applicant may formally withdraw the application.

3. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request such additional information that is necessary to determine whether the proposed operation will comply with all the requirements set forth in NAC 445B.001 to 445B.390, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director pursuant to subsection 1 or 2.

4. Except as otherwise provided in this section, within 180 days after the official date of submittal of an application for a Class I operating permit or for the revision of a Class I operating permit, the Director shall make a preliminary determination to issue or deny the Class I operating permit or the revision of the Class I operating permit. The Director shall give preliminary notice of his or her intent to issue or deny the Class I operating permit or the revision of the Class I operating permit within 180 days after the official date of submittal.

5. Within 10 working days after the receipt of an application for a minor revision of a Class I operating permit, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine the application to be incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date on which the Director receives the application, the official date of submittal is the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier.

6. The Director's review and preliminary intent to issue or deny a Class I operating permit or the revision of a Class I operating permit and the proposed conditions for the Class I operating permit must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, and in the air quality region where the source is located for 30 days to enable public participation and comment and a review by any affected states.

7. The Director shall:

(a) ~~{Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the Class I stationary source is located or in a state publication}~~ *Publish notice of the Director's preliminary intent to issue or deny a Class I operating permit or the revision of a Class I operating permit and a copy of the proposed Class I operating permit on an Internet website* designed to give general public notice;

(b) Provide written notice to:

(1) Persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(2) Any affected state; and

(3) Any affected local air pollution control agency;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public and affected states;

(d) Provide a copy of the Director's review of the application, the Director's preliminary intent to issue or deny the Class I operating permit or the revision of a Class I operating permit, and the proposed Class I operating permit to the Administrator; and

(e) Establish a 30-day period for public comment.

8. The provisions of subsections 6 and 7 do not apply to:

(a) An administrative amendment to a Class I operating permit made pursuant to NAC 445B.319;

(b) A change without revision to a Class I operating permit made pursuant to NAC 445B.342;

or

(c) A minor revision of a Class I operating permit made pursuant to NAC 445B.3425, if the Director determines that the minor revision does not result in a significant change in air quality at any location where the public is present on a regular basis.

9. The notice required for a Class I operating permit or for a revision of a Class I operating permit pursuant to subsection 7 must:

- (a) Identify the affected facility and the name and address of the applicant;
- (b) Include the name and address of the authority processing the Class I operating permit;
- (c) Identify the activity or activities involved in the Class I operating permit and the emissions change involved in any revision of the Class I operating permit;
- (d) State that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable;

(e) Include the name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the Class I operating permit, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the Class I operating permit and which are relevant to the determination of the issuance of the Class I operating permit; and

(f) Include a brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

10. All comments on the Director's review and preliminary intent for the issuance or denial of a Class I operating permit or a revision of a Class I operating permit must be submitted in writing to the Director within 30 days after the public announcement. The Director shall give notice of any public hearing at least 30 days before the date of the hearing. The Director shall

keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

11. Except as otherwise provided in subsection 12 and NAC 445B.319, 445B.342 and 445B.3425, within 12 months after the official date of submittal of a Class I-B application for an operating permit or revision of an operating permit, the Director shall issue or deny the operating permit or revision of the operating permit. The Director shall make the decision by taking into account:

- (a) Written comments from the public, affected states and the Administrator;
 - (b) Comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;
 - (c) Information submitted by proponents of the project; and
 - (d) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.
- ↪ The Director shall send to the Administrator a copy of the final operating permit issued by the Director after approving the Class I-B application.

12. For stationary sources subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, adopted by reference pursuant to NAC 445B.221, the Director shall issue or deny an application for a Class I operating permit, or the revision or renewal of a Class I operating permit, within 12 months after the official date of submittal of an application for a new Class I operating permit or the revision of a Class I operating permit. The application shall be deemed to be complete for the purposes of 40 C.F.R. § 52.21 on the date that the Director makes the preliminary determination to issue or deny the Class I operating permit or the revision of the Class I operating permit.

13. The Director shall not issue a Class I operating permit, or a revision or renewal of a Class I operating permit, if the Administrator objects to its issuance in writing within 45 days after the Administrator's receipt of the proposed conditions for the Class I operating permit and the necessary supporting information.

14. Any person may petition the Administrator to request that he or she object to a Class I operating permit or a revision of a Class I operating permit as provided in 40 C.F.R. § 70.8(d).

15. If the Administrator objects to the issuance of a Class I operating permit or a revision of a Class I operating permit of his or her own accord or in response to a public petition, the Director shall submit revised proposed conditions for the Class I operating permit or the revision of a Class I operating permit in response to the objection within 90 days after the date on which he or she is notified of the objection.

16. If construction will occur in one phase, a Class I operating permit or the revision of a Class I operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months after initiated. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

17. If construction will occur in more than one phase, the projected date of the commencement of construction of each phase of construction must be approved by the Director. A Class I operating permit or the revision of a Class I operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if the initial phase of

construction is not commenced within 18 months after the projected date of the commencement of construction approved by the Director. The Director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

Sec. 3. NAC 445B.3457 is hereby amended to read as follows:

445B.3457 1. Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class II operating permit or for the revision of a Class II operating permit, accompanied by the applicable fee, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier.

2. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.390, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

3. If notice to the public is not required pursuant to subsection 5, the Director shall issue or deny a Class II operating permit or the revision of a Class II operating permit within 60 days

after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit.

4. The Director shall:

(a) Make a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit within 15 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit;

(b) Take such action as is necessary to ensure compliance with the provisions of subsections 6, 7 and 8, as applicable; and

(c) Issue or deny the Class II operating permit or the revision of the Class II operating permit taking into account:

(1) Written comments from the public;

(2) Information submitted by proponents of the project; and

(3) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.

5. Public notice is required for an application for:

(a) A Class II operating permit for a stationary source that has not previously held a Class I operating permit or Class II operating permit; or

(b) The revision of a Class II operating permit for which the Director determines that the change to the stationary source results in an increase in allowable emissions that exceeds any of the following thresholds:

Pollutant

Threshold in tons per year

Carbon monoxide	40
Nitrogen oxides	40
Sulfur dioxide	40
PM ₁₀	15
Ozone measured as VOC	40
Lead.....	0.6

6. For the notice required pursuant to subsection 5 and at the time the Director makes a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit pursuant to subsection 4, the Director shall:

(a) Make the preliminary determination public and maintain it on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, for 30 days to enable public participation and comment;

(b) ~~Cause to be published~~ *Publish notice of the Director’s preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit and a copy of the proposed Class II operating permit* on an Internet website designed to give general public notice ~~[an electronic copy of the Director’s notice of proposed action;]~~ ;

(c) Provide written notification of the Director’s ~~proposed action~~ *preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit* to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(d) ~~Provide notice of the Director’s proposed action and a copy of the application to a public library in the area in which the proposed new Class II source or the proposed modification to the~~

~~existing Class II source is located for posting to ensure that adequate notice is given to the public;~~

~~(e)~~ Provide notice of the Director's ~~{proposed action}~~ *preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit* and a copy of the application to the Administrator and to any local air pollution control agency having jurisdiction in the area in which the proposed new Class II source or the proposed modification to the existing Class II source is located; and

~~{(f)}~~ (e) Establish a 30-day period for public participation.

7. The notice required pursuant to subsection 5 must include:

- (a) The name of the affected facility and the name and address of the applicant;
- (b) The name and address of the state agency processing the Class II operating permit or the revision of the Class II operating permit;
- (c) The name, address and telephone number of a representative from the state agency that is processing the Class II operating permit or the revision of the Class II operating permit;
- (d) A description of the proposed new Class II source or the proposed modification to the existing Class II source and a summary of the emissions involved;
- (e) The date by which comments must be submitted to the Director;
- (f) A summary of the analysis of the effect of the proposed new Class II source or the proposed modification to the existing Class II source on the quality of air, as analyzed by the state agency processing the Class II operating permit or the revision of the Class II operating permit;
- (g) A statement indicating that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable; and

(h) A brief description of the procedures for public participation.

8. All comments concerning the applications for which notice to the public is required to be provided pursuant to this section must be submitted in writing to the Director within the time specified in the notice. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

9. If construction will occur in one phase, a Class II operating permit or the revision of a Class II operating permit for a new or modified stationary source expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months or more after the construction begins. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

10. If construction will occur in more than one phase, the projected date of commencement of construction of each phase must be approved by the Director. A Class II operating permit or the revision of a Class II operating permit for a new or modified stationary source expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement of construction approved by the Director. The Director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

Sec. 4. NAC 445B.3477 is hereby amended to read as follows:

445B.3477 1. The Director may issue a Class II general permit covering numerous similar stationary sources.

2. Before issuing a Class II general permit, the proposed conditions for the Class II general permit must be made public and maintained on file with the Director during normal business

hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, for 30 days to enable public participation and comment. The Director shall:

(a) ~~{Cause to be published a notice in one or more newspapers of general circulation in the area in which the Class II general operating permit is applicable;}~~ *Publish notice of the Director's proposed conditions and a copy of the proposed Class II general permit on an Internet website designed to give general public notice;*

(b) Provide written notice to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public; and

(d) Establish a 30-day period for public participation.

3. The notice required pursuant to subsection 2 must include, without limitation:

(a) The name and address of the state agency processing the Class II general permit;

(b) The name, address and telephone number of a representative from the state agency that is processing the Class II general permit from whom interested persons may obtain additional information, including copies of:

(1) The proposed conditions for the Class II general permit;

(2) All relevant supporting materials; and

(3) All other materials which are available to the state agency that is processing the Class II general permit and which are relevant to the determination of the issuance of the Class II general permit;

(c) A description of the proposed Class II general permit and a summary of the emissions involved;

- (d) The date by which comments must be submitted to the Director;
- (e) A summary of the impact of the proposed Class II general permit on the quality of the air;
- (f) A statement indicating that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable; and
- (g) A brief description of the procedures for public participation and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

4. All comments concerning the proposed Class II general permit for which notice to the public is required to be provided pursuant to this section must be submitted in writing to the Director within the time specified in the notice. The Director shall give notice of any public hearing scheduled pursuant to this section at least 30 days before the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

5. The Director may issue the Class II general permit after considering:

- (a) Written comments from the public;
- (b) The comments made during public hearings concerning the proposed Class II general permit;
- (c) Information submitted by proponents of the Class II general permit; and
- (d) The effect of the Class II general permit on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.

6. A Class II general permit must set forth the criteria by which stationary sources may qualify for the Class II general permit.

7. After the effective date of a Class II general permit, the owner or operator of any stationary source that meets the criteria set forth in the Class II general permit may request authority to operate under the Class II general permit. The request must be in writing and must include all the information required by the Class II general permit.

8. The Director shall grant or deny authority to operate under a Class II general permit within 30 days after his or her receipt of a request for such authority. The Director's decision to grant or deny an application for authority to operate under the terms of a Class II general permit is not subject to the requirements of NAC 445B.3457.

9. A person may challenge the provisions of a Class II general permit only at the time the Class II general permit is issued. The Director's grant or denial of authority to operate under a Class II general permit to a stationary source or stationary sources does not provide an opportunity for an administrative review or a judicial review of the Class II general permit.

10. The Director shall not grant authority to operate under a Class II general permit to an affected source.

11. The term of a Class II general permit is 5 years.

12. The authority to operate under a Class II general permit expires after 5 years. An owner or operator of a stationary source operating under the authority of a Class II general permit shall apply to renew the authority to operate under the Class II general permit at least 30 days before the authorization expires.

13. A stationary source which obtains authorization to operate under a Class II general permit but is later determined not to qualify under the conditions of the Class II general permit may be subject to an action enforcing the prohibition against operating without a permit.

Sec. 5. NAC 445B.3657 is hereby amended to read as follows:

445B.3657 1. The Director shall make an initial determination of the de minimis mercury emissions for thermal units that emit mercury not later than July 3, 2006.

2. The Director may, upon written request and satisfactory demonstration by the owner or operator of a thermal unit that emits mercury, determine that the mercury emissions from the thermal unit that emits mercury are de minimis mercury emissions. Within 60 days after receiving a written request pursuant to this subsection, the Director shall make an initial determination of the mercury emissions from the thermal unit that emits mercury to determine whether the mercury emissions are de minimis mercury emissions.

3. In making a determination pursuant to subsection 1 or 2, if a stationary source has more than one thermal unit that emits mercury, the Director may, after considering the impact of the combined mercury emissions from the thermal units that emit mercury at the stationary source, make an initial determination concerning whether the mercury emissions from one or more of the thermal units that emit mercury are de minimis mercury emissions.

4. An initial evaluation of de minimis mercury emissions determined pursuant to subsection 1, 2 or 3 must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

5. The Director shall:

(a) ~~{Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the stationary source is located or in a state publication}~~ *Publish notice of the*

Director's initial evaluation on an Internet website designed to give general public notice;

(b) Provide written notice to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public; and

(d) Establish a 30-day period for comment from the public.

6. The Director shall make a final determination of de minimis mercury emissions within 90 days after the date of the notice of the initial evaluation provided pursuant to subsection 5. The final notification must be made public and maintained on file with the Director in accordance with subsection 4 and noticed to the public in accordance with paragraphs (a), (b) and (c) of subsection 5.

Sec. 6. NAC 445B.3677 is hereby amended to read as follows:

445B.3677 For each tier-1 thermal unit that emits mercury and tier-2 thermal unit that emits mercury:

1. For a phase-1 application, phase-2 application or an application for the revision of a mercury operating permit to construct for a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury, within 30 days after the date of receipt of the application, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If an incomplete application is returned to the applicant, the applicant must resubmit a complete application within 15 days after the applicant receives the

returned incomplete application. If substantial additional information is not required, the Director shall determine the application to be complete. The official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt of the most recently submitted application, whichever is earlier.

2. For a phase-1 application or an application for the revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application for a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury, within 180 days after the official date of submittal, the Director shall:

(a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury;

(b) Include the presumptive NvMACT for the tier-1 thermal unit that emits mercury; and

(c) If the applicant requests mercury early reduction credit, consider the following for each thermal unit that emits mercury:

(1) The best controls available for mercury emissions.

(2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.

(3) The enclosure of systems or processes to eliminate mercury emissions.

(4) The collection, capture or treatment of mercury emissions.

(5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.

(6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.

(7) Any combination of subparagraphs (1) to (6), inclusive.

3. For a phase-2 application or an application for the revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application for a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury, within 9 months after the official date of submittal, the Director shall:

(a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury; and

(b) Make a determination of NvMACT for the thermal unit that emits mercury in which the Director shall consider the following for each thermal unit that emits mercury:

(1) The maximum degree of reduction of mercury emissions that is achievable for the thermal unit after considering:

(I) The cost of achieving such a reduction; and

(II) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury to implement NvMACT.

(2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.

(3) The enclosure of systems or processes to eliminate mercury emissions.

(4) The collection, capture or treatment of mercury emissions.

(5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.

(6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.

(7) Any combination of subparagraphs (1) to (6), inclusive.

4. If, after the official date of submittal of an application pursuant to subsection 1, the Director discovers that additional information is required to act on an application, the Director may request additional information necessary to determine whether the proposed construction or operation will comply with all of the requirements set forth in NAC 445B.3611 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

5. The Director's review and the proposed conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

6. The Director shall:

(a) ~~Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the stationary source is located or in a state publication~~ *Publish notice of the Director's review, the proposed conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct and a copy of the proposed mercury operating permit on an Internet website* designed to give general public notice;

(b) Provide written notice to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public; and

(d) Establish a 30-day period for comment from the public.

7. In addition to the requirements set forth in subsections 5 and 6, the notice required for a mercury operating permit to construct or for a revision of a mercury operating permit to construct must identify:

(a) The stationary source and the name and address of the applicant;

(b) The name and address of the authority processing the mercury operating permit to construct;

(c) The activity or activities involved in the mercury operating permit to construct and the change of mercury emissions involved in any revision of the mercury operating permit to construct;

(d) The presumptive NvMACT or the determination of NvMACT, as appropriate;

(e) The name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the mercury

operating permit to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the mercury operating permit to construct and which are relevant to the proposed conditions for the mercury operating permit to construct; and

(f) A brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

8. All comments concerning the Director's review and the conditions proposed by the Director concerning the phase-1 application or phase-2 application for a mercury operating permit to construct or of a revision of a mercury operating permit to construct must be submitted in writing to the Director within 30 days after the public notice required to be provided pursuant to subsection 6. The Director shall give notice of any public hearing at least 30 days before the date of the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

9. Within 12 months after the official date of submittal of a phase-1 application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct or the proposed revision of a mercury operating permit to construct. The Director shall make his or her decision by taking into account:

- (a) Written comments from the public;
- (b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and
- (c) Information submitted by proponents of the project.

10. Within 16 months after the official date of submittal of a phase-2 application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct or the proposed revision of a mercury operating permit to construct. The Director shall make his or her decision by taking into account:

(a) Written comments from the public;

(b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and

(c) Information submitted by proponents of the project.

Sec. 7. NAC 445B.3683 is hereby amended to read as follows:

445B.3683 For each new or modified thermal unit that emits mercury:

1. Within 30 days after the date of receipt of an application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 30 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt of the most recently submitted application, whichever is earlier.

2. Within 180 days after the official date of submittal, the Director shall:

(a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury.

(b) Make a determination of NvMACT for the thermal unit that emits mercury in which the Director shall consider the following for each thermal unit that emits mercury:

(1) The maximum degree of reduction of mercury emissions that is achievable for the thermal unit after considering:

(I) The cost of achieving such a reduction; and

(II) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal unit that emits mercury to implement the NvMACT.

(2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.

(3) The enclosure of systems or processes to eliminate mercury emissions.

(4) The collection, capture or treatment of mercury emissions.

(5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.

(6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.

(7) Any combination of subparagraphs (1) to (6), inclusive.

(c) Make a preliminary determination to issue or deny a mercury operating permit to construct or a revision of a mercury operating permit to construct which includes any proposed conditions for the mercury operating permit to construct.

3. If, after the official date of submittal, the Director discovers that additional information is required to act on an application, the Director may request additional information necessary to determine whether the proposed construction or operation will comply with all of the requirements set forth in NAC 445B.3611 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

4. The Director's review, the proposed conditions for the mercury operating permit to construct and the preliminary intent to issue or deny a mercury operating permit to construct or a revision of a mercury operating permit to construct must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

5. The Director shall:

(a) ~~Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the stationary source is located or in a state publication~~ *Publish notice of the Director's review, the proposed conditions for a mercury operating permit to construct, the preliminary intent to issue or deny a mercury operating permit to construct or a revision of a*

mercury operating permit to construct and a copy of the proposed mercury operating permit on an Internet website designed to give general public notice;

(b) Provide written notice to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public; and

(d) Establish a 30-day period for comment from the public.

6. In addition to the requirements set forth in subsection 5, the notice required for a mercury operating permit to construct or for a revision of a mercury operating permit to construct must identify:

(a) The stationary source and the name and address of the applicant;

(b) The name and address of the authority processing the mercury operating permit to construct;

(c) The activity or activities involved in the mercury operating permit to construct and the change of mercury emissions involved in any revision of the mercury operating permit to construct;

(d) The determination of NvMACT;

(e) The name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the mercury operating permit to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the mercury operating permit to construct and which are relevant to the determination of the issuance of the mercury operating permit to construct; and

(f) A brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

7. All comments concerning the Director's review, the proposed conditions for the mercury operating permit to construct and the preliminary intent for the issuance or denial of a mercury operating permit to construct or of a revision of a mercury operating permit to construct must be submitted in writing to the Director within 30 days after the public notice required to be provided pursuant to subsection 5. The Director shall give notice of any public hearing at least 30 days before the date of the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

8. Within 60 days after the close of the period for public participation, or 60 days after the hearing if a hearing is scheduled pursuant to this section, whichever is later, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct and whether to issue or deny a mercury operating permit to construct or the revision of a mercury operating permit to construct. The Director shall make his or her decision by taking into account:

- (a) Written comments from the public;
- (b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and
- (c) Information submitted by proponents of the project.

Sec. 8. NAC 459.953465 is hereby amended to read as follows:

459.953465 1. Upon determining that an application for a permit to construct a new process is complete, the Division shall issue a notice of its receipt of the application. The notice must:

(a) Be sent to the applicant and the local governing body in the area in which the new process is to be located, and be published ~~in a newspaper of general circulation for the area in which the process is to be located;~~ *on an Internet website designed to give general public notice;* and

(b) Summarize the review to be conducted by the Division on the application for the permit to construct and state that the following information will be available for public review:

- (1) The registration submitted pursuant to NAC 459.953451;
- (2) The coordinated emergency plan document;
- (3) The site plan; and
- (4) A copy of the conditional use permit.

2. The period for public comment must be 30 days and commences on the date on which the notice is ~~published in the newspaper;~~ *published on an Internet website pursuant to subsection 1.*

3. Not later than 15 days after the date on which the period for public comment concerning an application for a permit to construct closes, the Division may, after considering the documents that are part of the application, require further modifications if such modifications are determined necessary to satisfy the requirements set forth in NAC 459.953467 for issuing a permit to construct.

Sec. 9. NAC 486A.140 is hereby amended to read as follows:

486A.140 1. Except as otherwise provided in subsection 4, the Administrator of the Division of Environmental Protection of the Department may designate a fuel as an alternative fuel. A person who wishes to have a fuel designated as an alternative fuel must submit to the Administrator a written request which includes evidence that the fuel complies with the requirements set forth in subsection 2.

2. A fuel designated as an alternative fuel by the Administrator must:

(a) If used to operate a motor vehicle:

(1) Reduce the emissions of one or more regulated pollutants to a level below the level of emissions generated if the fuel for which the designated fuel serves as an alternative is used to operate a motor vehicle;

(2) Generate emissions which are within the limits established pursuant to NAC 445B.596 for all regulated pollutants; and

(3) Generate emissions which are measurable using testing procedures approved by the Division; and

(b) Be capable of being safely transported in bulk, handled during fueling and used to operate motor vehicles which are converted or manufactured to use the fuel.

3. Not less than 30 days before a fuel is designated as an alternative fuel pursuant to subsection 1, the Administrator shall provide a notice of intent to designate the fuel as an alternative fuel to each person who has requested that his or her name be placed on a mailing list maintained by the Division for the purpose of providing that notice. The Administrator shall ~~cause~~ *publish* the notice ~~[to be published at least once in newspapers of general circulation throughout this State.]~~ *of intent on an Internet website designed to give general public notice.*

4. The Administrator shall not designate a fuel as an alternative fuel if he or she determines that such a designation would have a significant adverse effect on a control measure or contingency measure.

5. The Administrator shall:

(a) Maintain a list of each fuel designated as an alternative fuel pursuant to subsection 1; and

(b) Make that list available for public inspection at the offices of the Division, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.